

### **REMARKS/ARGUMENTS**

The Office Action of November 12, 2009, has been reviewed and these remarks are responsive thereto. Claims 11 and 36 have been canceled in the present paper. No new matter has been added. Claims 1-10, 12-35, and 37-51 are presented for examination upon entry of the present paper. Reconsideration and allowance of the instant application are respectfully requested.

As a preliminary matter, independent claims 1, 26, and 51 have been amended to incorporate features previously recited in now-canceled claims 11 and 36. Such amendments do not require further consideration and/or search on the part of the Examiner; the amended claims may immediately be entered.

#### **Interview Summary**

The undersigned would like to thank Examiner McAdams for the courtesies extended during a telephone interview held on January 19, 2010. Pursuant to MPEP § 713.04, the below includes Applicants' substance of interview.

#### **Claim Rejections under 35 U.S.C. § 102**

Claims 1-7, 9-17, 20-42, and 45-51 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. pub. no. 2003/0086425 to Bearden et al. ("Bearden"). This rejection is traversed below.

Amended claim 1 recites, among other features, "wherein said first stage comprises the operations of inputting a file containing the IP addresses representing the sites most frequently visited by said user and performing a traceroute function for each destination site, by tracing the path to reach each destination site." These features are similar to features previously recited in (now-canceled) claim 11. In the Office Action at pages 6, in the context of rejecting claim 11, the Office relied on Bearden at paragraph [0213] to allegedly disclose such features. Bearden at paragraph [0213] describes a generation and monitoring component that injects traffic flows or "calls" representing a target application to a network while collecting end-to-end quality metrics and layer-3 path information that verifies that a call path is following a predicted path based on

router tables. As discussed and agreed to during the interview, even assuming (without admitting) that the injected traffic flows or calls described in Bearden at paragraph [0213] may appropriately be analogized to the recited file containing the IP addresses, Bearden lacks a teaching or disclosure that the traffic flows or calls (e.g., the alleged file containing IP addresses) represent sites most frequently visited by a user as recited in claim 1. Accordingly, Bearden fails to anticipate claim 1 for at least the foregoing reasons.

Amended independent claims 26 and 51 recite features similar to those described above with respect to claim 1. Accordingly, claims 26 and 51 are distinguishable for at least the same reasons as their respective base claims.

Claims 2-10, 12-17, 20-25, 27-35, 37-42, and 45-50 each depend from at least one of claims 1 and 26, and are distinguishable for at least the same reasons as their respective base claims.

### **Claim Rejections under 35 U.S.C. § 103**

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bearden in view of U.S. pat. no. 5,958,010 to Agarwal et al. (“Agarwal”)<sup>1</sup>. Claims 18-19 and 43-44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bearden in view of U.S. pub. no. 2002/0169857 to Martija et al. (“Martija”). These rejections are traversed below.

Notwithstanding whether Agarwal is properly combinable with Bearden, Agarwal fails to remedy the deficiencies of Bearden with respect to claim 1. Claim 8 depends from claim 1 and is therefore distinguishable for at least the same reasons as claim 1.

Notwithstanding whether Martija is properly combinable with Bearden, Martija fails to remedy the deficiencies of Bearden with respect to claims 1 and 26. Claims 18-19 and 43-44 each depend from at least one of claim 1 and 26, and are therefore distinguishable for at least the same reasons as their respective base claims.

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<sup>1</sup> The Office Action at page 9 rejects claim 8 under section 103 based on a proposed combination of Bearden and Agarwal, yet the Office Action at pages 2-3, paragraph 6 (“Response to Arguments”) seems to suggest that the Office believes Bearden discloses the features recited in claim 8 (presumably under a section 102 rejection). For purposes of this paper, Applicants presume the Office was persuaded by the remarks included in Applicants’ Amendment dated June 22, 2009, with respect to claim 8, at least insofar as the rejection of claim 8 is now based on the proposed combination of Bearden and Agarwal.

Appln. No.: 10/527,333  
Response dated January 21, 2010  
Reply to Office Action of November 12, 2009

**CONCLUSION**

If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same.

Respectfully submitted,  
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Dated: January 21, 2010

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